

REMARKS/ARGUMENTS

Claims 1-17 are pending in the Application.

Claims 1-17 stand rejected.

Claims 9 and 17 are amended herein.

Claims 18-20 are added herein.

**I. REJECTIONS UNDER 35 U.S.C. § 102(b)**

Claims 1 and 7-9 have been rejected under 35 U.S.C. § 102(b) as being anticipated by *Tavlarides et al.*, U.S. Patent No. 5,616,533 ("*Tavlarides*"). Office Action, at 2. Applicant respectfully traverses this rejection.

The Examiner is reminded that anticipation is established only when a single prior art reference discloses, expressly or under the principles of inherency, each and every element of a claimed invention. Omission of any claimed element, no matter how insubstantial, is grounds for traversing a rejection based on § 102. See *RCA Corp. v. Applied Digital Data Systems, Inc.*, 730 F.2d 1440, 1444, 221 U.S.P.Q. 385, 388 (Fed. Cir. 1984); *Connell v. Sears, Roebuck & Co.*, 722 F.2d 1542 (Fed. Cir. 1983).

Regarding *Tavlarides*, the Examiner states that "[t]he patent describes removal of selenium from water using a compound containing quaternized amine." The Examiner directs Applicant to claim 19 in *Tavlarides*. Office Action, at 2.

Applicant respectfully points out that *Tavlarides* teaches (and claims) a composite material and a method for making a composite material, wherein said composite material comprises a metal chelating agent linked to a support, and wherein said composite material is suitable for removing heavy metal ions from waste streams. Claim 19 in *Tavlarides*, to which the Examiner points, is specifically directed to a method of making such a composite, wherein a quaternary amine-containing silane compound is covalently bound to a hydroxyl-bearing inorganic substrate.

Claim 1 is directed to a method for removing selenium from an aqueous stream, the method comprising a step of passing said aqueous stream, in combination with a quaternary amine compound, through a filter so as to deplete said stream of selenium. As such, and as will be recognizable to one of ordinary skill in the art, the quaternary amine is freely dispersed or dissolved in the stream. Nowhere in *Tavlarides* is it either taught or suggested to pass an aqueous stream containing a quaternary amine compound through a filter, or particularly for the purpose of removing selenium from the aqueous stream. Accordingly, Claim 1 cannot be anticipated by *Tavlarides*.

Claims 7 and 8 depend either directly or indirectly from Claim 1 and are not anticipated by *Tavlarides* for the same reason Claim 1 is not anticipated by *Tavlarides*. See *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q. 2d 1596 (Fed. Cir. 1988).

Claim 9 has been amended to clearly articulate that the quaternary amine compound is present in the aqueous stream. No new matter is introduced as a result of such amending. Like Claim 1, amended Claim 9 is directed to a method of passing a selenium-laden aqueous stream, in combination with a quaternary amine compound, through a filter so as to deplete the aqueous stream of selenium. Similarly, amended Claim 9 cannot be anticipated by *Tavlarides*.

As a result of the foregoing, Applicant respectfully requests that the Examiner withdraw the rejection of Claims 1 and 7-9 under 35 U.S.C. § 102(b) as being anticipated by *Tavlarides*.

## **II. REJECTIONS UNDER 35 U.S.C. § 103(a)**

Claims 2-6 and 10-17 have been rejected under 35 U.S.C. § 103(a) as being obvious over *Tavlarides*. Office Action, at 2. Applicant respectfully traverses this rejection.

The Examiner alleges that "[i]t would have been obvious to have treated any selenium-containing waste stream, such as a waste stream from an oil refinery," and that "[i]t is well known that the specified sorbents are conventional filter sorbents, so selection thereof for use in a filter to remove selenium would have been obvious," Office Action, at 2.

Regarding Claims 2-6 and 10-16, Applicant respectfully points out that the Examiner's rejection of these Claims under 35 U.S.C. § 103(a) is predicated on the Examiner's rejection of Claims 1 and 9 (from which Claims 2-6 and 10-16 depend) under 35 U.S.C. § 102(b). As Claim 1 and amended Claim 9 are neither anticipated by, nor obvious in view of, *Tavlarides* (see above), neither can Claims 2-6 and 10-16 be obvious in view of *Tavlarides*. See *In re Fine*.

Claim 17 has been amended to clarify that the aqueous stream has free quaternary amines in it ("...passing the aqueous stream, in combination with a quaternary amine, through a filter..."). No new matter is being introduced as a result of such amending. As *Tavlarides* neither teaches nor suggests such an aqueous stream comprising free quaternary amines (see above), Claim 17 cannot be obvious in view of *Tavlarides*. See M.P.E.P. 706.02(j); *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q. 2d 1438 (Fed. Cir. 1991).

As a result of the foregoing, Applicant respectfully requests that the Examiner withdraw the rejection of Claims 2-6 and 10-17 under 35 U.S.C. § 103(a) as being obvious over *Tavlarides*.

### **III. ADDED CLAIMS**

Claims 18-20 are added herein. Support for such Claims exists in the Application. See, e.g., Application, p. 7, ll. 4-12. No new matter is introduced as a result of such amending.

### **IV. CONCLUSION**

As a result of the foregoing, it is asserted by Applicant that the Claims in the Application are now in a condition for allowance, and Applicant respectfully requests allowance of such Claims. Applicant further requests that the Examiner call Applicant's Attorney at the below listed number if the Examiner believes that such a discussion would be helpful in resolving any remaining problems.

Respectfully submitted,



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